

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:) Chapter 11
)
CIRCUIT CITY, INC., *et al.*,) Case No. 08-35653
) Jointly Administered
Debtors.)
)
)

**OBJECTION OF EAST BRUNSWICK VF, LLC TO CURE AMOUNT
ESTABLISHED BY DEBTORS**

East Brunswick VF, LLC (“Landlord”)¹, by and through its undersigned counsel, hereby files this cure objection pursuant to the *Order Under Bankruptcy Code Sections 105, 363, and 365(I) Approving Bidding Auction Procedures for Sale of Unexpired Non-residential Real Property Leases, (II) Setting Sale Hearing Dates and (III) Authorizing and Approving (A) Sale of Certain Unexpired Non-residential Real Property Leases Free and Clear of All Interests, (B) Assumption and Assignment of Certain Unexpired Non-residential Real Property Leases and (C) Lease Rejection Procedure* (the “Order”), and in support thereof states as follows:

1. On November 10, 2008, the above-captioned debtors (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the *Bankruptcy Code*. The Debtors

¹ Debtor’s books and records may identify Landlord as “Vornado Finance, LLC”, as that is the name that appears on Debtor’s Notice of Bids Received, and on Debtor’s Supplemental Cure Schedule. Debtor’s “location number” is stated as 3669.

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continue to operate their business and manage the property as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the *Bankruptcy Code*.

2. Pursuant to a commercial lease dated as of February 11, 1998 by and between Circuit City Stores, Inc., and Landlord, as successor-in-interest to Landthrop Enterprises L.L.C., Debtors lease from Landlord non-residential real property located at 327 Route 18, New York, New York 08816 (the “Lease”).

3. On March 3, 2009, the Debtors sent a notice to Landlord claiming that the lease cure amount owed to Landlord was \$72,669 (“Debtors’ Cure Amount”).

4. Pursuant to Section 365(b)(1)(A) of the *Bankruptcy Code*, in order to assume or assume and assign an executory lease agreement, where there has been a default, the debtor must first cure or provide adequate assurance that the debtor will promptly cure such default.

5. Landlord hereby objects to Debtors’ Cure Amount. As of the date of the filing of this objection, Landlord claims the correct amount necessary to cure defaults under the Lease is \$203,112.10, as set forth on the attached **Exhibit A**.

6. Because the Lease continues to be in default, and damages and other claims continue to accrue, and because, pursuant to the Order, the lease cure amount will not be paid until after closing on an approved sale of the Lease, Landlord reserves its right to amend Exhibit A to reflect additional amounts that may become due and owing, including, but not limited to, any reconciliations for charges for common area maintenance and real estate taxes.

WHEREFORE, Landlord hereby requests that the Court enter an order (i) sustaining this Objection, (ii) confirming that the amounts contained on Exhibit A hereto constitute the correct cure amount, (iii) allowing any and all additional amounts to cure further defaults accruing after the date of this objection to be included as part of the total amount necessary to be

paid prior to assumption or assignment of Landlord's Lease, (iv) directing the Debtors to promptly pay amounts that the Court ultimately determines to be the appropriate cure amount, and (v) for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

EAST BRUNSWICK VF, LLC

By Counsel

/s/ William A. Gray

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CERTIFICATE OF SERVICE

I hereby certify on this 6th day of March, 2009, a copy of the foregoing was served by electronic means via the Court's ECF/CM system, and via mail, postage prepaid, to the following:

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/s/ William A. Gray

TENANT:	Circuit City Stores, Inc.					
PREMISES:	East Brunswick, NJ					
TENANT ID:	EB/30C					
DATE	DESCRIPTION OF CHARGE	AMOUNT DUE	PRE-PETITION	POST-PETITION	PAYMENT	BALANCE DUE
11/23/2008	4th Q 2008 taxes	\$35,669.19	\$15,508.34	\$20,160.85	(\$12,018.97)	\$23,650.22
11/1/2008	Base rent	\$67,237.50	\$20,171.25	\$47,066.25	\$0.00	\$67,237.50
11/1/2008	CAM	\$5,391.39	\$1,617.42	\$3,773.97	\$0.00	\$5,391.39
11/3/2008	Water	\$40.22	\$12.07	\$28.15	\$0.00	\$40.22
1/1/2009	1st Q 2009 taxes	\$34,123.66	\$0.00	\$34,123.66	\$0.00	\$34,123.66
3/1/2009	Base rent	\$67,237.50	\$0.00	\$67,237.50	\$0.00	\$67,237.50
3/1/2009	CAM	\$5,391.39	\$0.00	\$5,391.39	\$0.00	\$5,391.39
3/1/2009	Water	\$40.22	\$0.00	\$40.22	\$0.00	\$40.22
					TOTAL DUE:	\$203,112.10

